

1 MICHAEL D. YOUNG (SBN 120787)
2 NICOLE C. RIVAS (SBN 179337)
3 **ALSTON & BIRD LLP**
4 333 South Hope Street, Sixteenth Floor
5 Los Angeles, California 90071
Telephone: (213) 576-1000
Facsimile: (213) 576-1100
Email: mike.young@alston.com
nicole.rivas@alston.com

6 Attorneys for Defendants THE BOARD OF TRUSTEES
7 OF THE UNIVERSITY OF ILLINOIS, erroneously sued as
THE UNIVERSITY OF ILLINOIS-URBANA CHAMPAIGN;
and DR. GEORGE GOLLIN

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

10 ST. LUKE SCHOOL OF MEDICINE;
11 DR. JERROLL B.R. DOLPHIN and
12 DR. ROBERT FARMER on behalf of
himself and all others similarly situated, as
applicable,

13 Plaintiffs,

14 v.

15 REPUBLIC OF LIBERIA; MINISTRY OF
16 HEALTH, a Liberian Governmental
Agency; MINISTRY OF EDUCATION, a
Liberian Governmental Agency; LIBERIAN
17 MEDICAL BOARD, a Liberian
Governmental Agency; NATIONAL
18 COMMISSION ON HIGHER
EDUCATION, a Liberian Governmental
Agency; NATIONAL TRANSITIONAL
19 LEGISLATIVE ASSEMBLY, a Liberian
Governmental Agency; DR. ISAAC
20 ROLAND; MOHAMMED SHERIFF; DR.
BENSON BARTH; DR. GEORGE GOLLIN;
21 EDUCATION COMMISSION FOR
FOREIGN MEDICAL GRADUATES; a
Pennsylvania Non-Profit organization;
22 FOUNDATION FOR ADVANCEMENT
OF INTERNATIONAL EDUCATION
AND RESEARCH; a Pennsylvania Non-
Profit organization, UNIVERSITY OF
23 ILLINOIS-URBANA CHAMPAIGN, an
Illinois Institution of Higher Learning;
24 STATE OF OREGON, Office of Degree
Authorization,

25
26
27
28 Defendants.

Case No.: 10-CV-01791 RGK (SHx)
[Honorable R. Gary Klausner]

**DR. GEORGE GOLLIN'S REPLY
MEMO TO HIS MOTION TO
DISMISS, ALTERNATIVELY FOR
MORE DEFINITE STATEMENT,
AND TO STRIKE**

[FRCP 8, 12(b)(1), 12(e), 12(f) & 41(b)]

DATE: July 26, 2010
TIME: 9:00 a.m.
COURTROOM: 850

MEMORANDUM OF POINTS AND AUTHORITIES

Professor Gollin’s pending motion to dismiss on sovereign immunity grounds, and to strike the class action allegations, among other things, is similar to The Board of Trustees of the University of Illinois’ (the University) pending motion, which this Court has taken under submission without argument. Plaintiffs did not timely file an opposition to the University’s motion, and did not file *any* opposition at all to Professor Gollin’s motion. For this reason alone (and there are many other reasons to go with this)¹, Professor Gollin’s now unopposed motion should be granted, and plaintiffs should not be provided leave to amend.

In fact, the only document we have seen even purporting to address these motions is a document apparently filed by plaintiff Jerroll Dolphin, M.D., himself, without leave of court, on July 2, 2010, which for some reason was not served on us until July 8, 2010 (we received an e-notification from the Court on that date). This purported opposition to *the University's* motion, filed many weeks too late, was not only filed by Dr. Dolphin despite this Court's refusal to allow this non-attorney to substitute in for attorney-of-record Thaddeus Culpepper, but it is written in the same "voice" as the original complaint – which is to say lacking in the organization, comprehensibility, and conciseness one expects from a federal court legal brief or pleading. Indeed, we cannot really respond to this late opposition at all even if we were so inclined since, to the extent we can even follow it, it does not appear to address the points made in the University's (or Professor Gollin's) moving papers.

In any case, even though the instant Reply brief is filed on behalf of Professor Gollin, we nonetheless object to the late-filed opposition to the University's

¹ Dismissal is also appropriate on the merits as set forth in the moving papers; for lack of federal court jurisdiction as this Court recognized in its July 2, 2010, Order; for obvious lack of prosecution by counsel and plaintiffs' inability to locate new counsel; and pursuant to Rule 11.

1 fully briefed motion (which had an original hearing date of July 6). We also object
2 and move to strike the document on the grounds it was not filed by the attorney of
3 record for plaintiff Dolphin, but by Dr. Dolphin himself after Dr. Dolphin's request to
4 substitute into this case was *denied* (now twice) by this Court. (Even if Dr. Dolphin
5 can represent himself pro per, he certainly cannot represent any of the other plaintiffs
6 in this action, as this Court has already indicated.)

7 With respect to Professor Gollin's motion to dismiss, we note that
8 plaintiff's counsel has already represented that he would dismiss the University from
9 this action on 11th Amendment grounds, clearly recognizing that the action is wholly
10 improper before this Court as against instrumentalities of the State. (See the
11 University's Reply Memorandum, Exhibit A to Young Declaration filed concurrently
12 therewith.) The University's professor, Dr. Gollin, should be included in that
13 dismissal for all the same reasons. As Professor Gollin has explained in his moving
14 papers, the University and Professor Gollin are both instrumentalities of the State of
15 Illinois covered by the 11th Amendment's sovereign immunity protection. (This is not
16 to minimize the other unopposed arguments made in Professor Gollin's moving
17 papers regarding the insufficiencies of the complaint; but this issue seems dispositive.)

18 We submit that this may be a case where sanctions are appropriate, and
19 we are considering filing such a motion in the near term.

20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28

In light of plaintiffs' non-opposition, we submit there is no reason why this Court should not grant Professor Gollin's motion in full

Respectfully Submitted

DATED: June 22, 2010

**MICHAEL D. YOUNG
NICOLE C. RIVAS
ALSTON & BIRD LLP**

/s/

Michael D. Young
Attorneys for Defendants THE BOARD OF
TRUSTEES OF THE UNIVERSITY OF ILLINOIS;
and DR. GEORGE GOLLIN